

**UNITED STATES DISTRICT COURT  
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.3.3  
Eastern Division**

LaShawn Ezell, et al.

Plaintiff,

v.

Case No.: 1:18–cv–01049

Honorable Virginia M. Kendall

City of Chicago, et al.

Defendant.

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**NOTIFICATION OF DOCKET ENTRY**

This docket entry was made by the Clerk on Wednesday, September 2, 2020:

MINUTE entry before the Honorable Jeffrey Cole: The plaintiffs have filed a motion to quash the defendant City of Chicago's subpoena to the IDOC and the CCDOC. The defendants seek an incredibly broad range of information, essentially any and all records, including all of the plaintiffs' phone conversations and recorded visits throughout the plaintiffs' lengthy incarcerations. They argue that all this is potentially relevant to plaintiffs' mental and physical state while incarcerated. In other words, in the years of recorded conversations, some bit of evidence about plaintiffs' state mind might possibly be revealed. But the subpoenas are so broad and all-encompassing that they are the very definition of a fishing expedition or of throwing darts in the dark. The plaintiffs proposed, in good faith negotiations, a two-stage process designed to narrow the sweep of defendants' subpoena, but the defendants rejected the proposal outright and the plaintiffs filed their motion to quash. After review of the parties' submissions, the plaintiffs' motion [227] is granted. The cases of *Pursley v. City of Rockford*, 2020 WL 1433827, at \*2 (N.D. Ill. 2020); *Simon v. Nw. Univ.*, 2017 WL 66818, at \*2 (N.D. Ill. 2017); and *Coleman v. City of Peoria*, 016 WL 3974005, at \*3 (C.D. Ill. 2016) provide the backdrop for granting the plaintiffs' motion to quash. In *Coleman*, also involving a subpoena for department of corrections phone recordings, the court denied the plaintiff's motion to quash, holding that "[i]n light of the relevance of the calls sought by the Defendants, and the difficulty in identifying the relevant calls, [plaintiffs'] lessened privacy interests [are] insufficient to quash the subpoenas." *Coleman*, 2016 WL 3974005, at \*4. But, significantly, the subpoena in *Coleman* was narrowly tailored to target calls with a discrete set of eight individuals. It was nothing like the blanket subpoena defendants issued here. In *Simon*, the court dealt with a subpoena much more like the one in this case; it sought all calls over the entire period of the plaintiff's incarceration. The court contrasted "the broad fishing expedition that [the] subpoena would allow with the more focused and narrowed request that the *Coleman* court faced", and quashed the subpoena. *Simon*, 2017 WL 66818, at \*4. All the defendant in *Simon* provided was a broad generalization that the calls might contain relevant evidence, *id.*, and that is all the defendants provide here. The defendants are, as the *Simon* court put it, "throwing darts in the dark." *Simon*, 2017 WL 66818, at \*4. *Pursley*, like *Simon*, dealt with a broad "all calls" subpoena. The court distilled the holdings of *Coleman* and *Simon* and, like *Simon*, quashed the broad subpoena. Despite the fact that there might well have been relevant evidence among years

*of calls, the court held that "an assertion that the material sought may contain relevant information is insufficient to allow an unlimited subpoena." Pursley, 2020 WL 1433827, at \*4. "Saying so doesn't make it so." United States v. 5443 Suffield Terrace, Skokie, Ill., 607 F.3d 504, 510 (7th Cir.2010). Accord Madlock v. WEC Energy Group, Inc., 885 F.3d 465, 473 (7th Cir. 2018). Even the Solicitor General's unsupported assertions are not enough. Digital Realty Trust, Inc. v. Somers, \_U.S.\_, 138 S.Ct. 767, 779 (2018) Clearly, what is involved here is a broad, unfocused subpoena like those in Simon and Pursley. It is, as the subpoenas in those cases, the epitome of a prohibited fishing expedition. Equal Employment Opportunity Comm'n v. Union Pac. R.R. Co., 867 F.3d 843, 852 (7th Cir. 2017). See generally cases collected in Sapia v. Bf. Of Education, 2017 WL 2060344, \*2 (N.D.Ill. 2017). The fact that it comes over two years into discovery [Dkt. #39] and just sixteen weeks before fact discovery closes [Dkt. #219] underscores the grasping—at—straws, throwing—darts—in—the—dark choose whatever analogy you like nature of the subpoena. Accordingly, the plaintiffs' motion to quash [227] is granted.Mailed notice 2(yt)*

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